THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.6606 of 1999

Dated:26.12.2007

Between

K.N.Reddy

..Petitioner

and

1.APSRTC rep., by its Vic Chairman & Managing Director, Hyderabad and Another.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.6606 of 1999

ORDER

This writ petition is filed seeking a Mandamus to declare the proceedings No.d1/255(22)/98-HCR, dated 24.7.1998 as arbitrary and illegal, and consequently direct the respondents to treat the period from 29.6.1985 to 24.11.1989 as on duty for all the purposes including seniority and further direct the respondents to promote the petitioner to the post of Assistant Depot Clerk/Controller duly taking his seniority as 708 with all consequential benefits.

It appears that the petitioner was appointed as Conductor in the respondent-Corporation with effect from 23.10.1975. While that being so, on the charge of cash and ticket irregularities, a detailed enquiry was conducted and he was removed from

service vide order dated 24.2.1976. Aggrieved by the same, the petitioner raised an industrial dispute and on failure of conciliation, the matter was referred to the Government. The Government, in turn, referred the matter to the Industrial Tribunal for adjudication of the dispute, which was numbered as I.D.No.212 of 1980. The Industrial Tribunal by order dated 11.1.1985, disposed of the said dispute directing the respondents to reinstate the petitioner with continuity of service, attendant benefits and full back wages. Aggrieved by the same, the respondent-Corporation filed W.P.No.7332 of 1985, which was dismissed on 26-07-1989. Though the award was passed on 11.1.1985, the petitioner was taken back into service on 25.11.1989 and was paid back wages only up to 28-06-1985. Aggrieved by the same, he filed MP No.34 of 1994 under Section 33 (c) (2) before the Labour Court, which was allowed on 14.10.1997 holding that the petitioner was entitled for wages from 29.6.1985 to 25.11.1989. Being aggrieved by this order, the respondent-Corporation filed writ petition No.33319

of 1997 and the same was also dismissed.

Now, the learned counsel for the petitioner submits that after dismissal of writ petition Nos.7332 of 1985 and 33319 of 1997 filed by the respondent-Corporation, the order impugned in this Writ Petition was passed stating that the petitioner reported to duty on 25.11.1989 although the reinstatement order was issued on 29.6.1985 itself, and as such, that period was ordered by the Regional Manager to be treated as 'not on duty' and his seniority rank was fixed at 1606 (A) in the list of Conductors.

The facts are not in dispute. Once the writ petition No.7332 of 1985 was dismissed and the MP No.34 of 1994 was allowed which was also concluded in WP No. 33319 of 1997, the petitioner's service from 19.6.1985 to 24.11.1989 is to be automatically treated as continued service for the purpose of drawing increments, seniority etc. Therefore, the impugned order passed by the respondents is arbitrary and illegal and it is liable to be set aside.

Accordingly, the impugned order passed by

the respondents is set aside and they are directed to treat the petitioner's service from 29.6.1985 to 24.11.1989 as continued service for the purpose of seniority, increments etc.

Writ petition is allowed to the extent indicated above. No costs.

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26-12-2007

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